

Message

From: Mutter, Andrew [mutter.andrew@epa.gov]
Sent: 10/22/2018 7:43:07 PM
To: Benevento, Douglas [benevento.douglas@epa.gov]
Subject: FW: Compilation 10/22/2018

From: Agarwal, Ilena
Sent: Monday, October 22, 2018 1:42:59 PM (UTC-07:00) Mountain Time (US & Canada)
To: AO OPA OMR CLIPS
Subject: Compilation 10/22/2018

E-15

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The Hill: Supreme Court given another opportunity to rein in regulatory state

<https://thehill.com/opinion/judiciary/412355-supreme-court-given-another-opportunity-to-rein-in-regulatory-state>

BY MARK MILLER, OPINION CONTRIBUTOR — 10/22/18 08:00 AM EDT

Federal courts have taken welcome steps in recent years to rein in the runaway regulatory state. Too often executive agencies charged with applying the laws as written by Congress have done so in ways unsupported by the text of those laws. In response, the courts have stepped into the breach to right those violations of the separation of powers set out by our Constitution. This week, the Supreme Court will be asked again to set things right, in a case called *Marquette County Road Commission v. EPA*.

It is a David v. Goliath story, but here David does not have a slingshot; instead, his weapons are legal papers, the Administrative Procedure Act and two important Supreme Court cases.

The facts are straightforward and, for the most part, not in dispute. In Marquette County, Michigan, the Road Commission wished to build a road extension — County Road 595 (CR 595) — as a shortcut for commercial truck traffic. The proposed 21-mile road would allow trucks to bypass busy city streets, thereby benefiting the health, safety and welfare of county residents.

To complete the road necessitated filling in 25 acres of wetlands, which required a permit under Section 404 of the Clean Water Act. States are authorized to approve a Section 404 permit if the application meets certain conditions. The EPA retains limited oversight authority when the state takes on this authority, which includes the ability to overrule the state's decision. If the EPA objects, the property owner must begin the permitting process anew with the U.S. Army Corps of Engineers.

That's what happened here. In 2011, the Road Commission submitted a permit application to the Michigan Department of Environmental Quality (MDEQ), the agency in charge of administering the federally approved permitting plan for the state. The Road Commission and MDEQ worked together to arrive at an approved plan for CR 595, and the MDEQ submitted the permit plan to the EPA.

But the EPA offered unsupported and vague objections to the permit application. The Road Commission attempted to remedy these objections, offering to protect and preserve 63 acres of wetlands for every acre of wetlands filled. But the EPA demanded more. Over nearly two years, no matter what the Road Commission offered, the EPA lodged objections.

Finally, after a September 2012 hearing on the objections and repeated rejections from the EPA, the MDEQ submitted a revised permit application, stating that it believed the application complied with all federal and state laws, and urging the EPA to withdraw its objections. The EPA refused and, in December 2012, lodged an entirely new set of objections unsupported by law.

The MDEQ and the Road Commission could not hope to comply with vague, unlawful objections, and under the Clean Water Act, after 30 days those objections resulted in a veto of the permit. Authority to approve CR 595 then transferred from the MDEQ to the Corps of Engineers, which would have required the Road Commission to start the entire permitting process from square one.

Instead, the Road Commission sought a federal court review of the EPA's veto of the road project. No one argues that the EPA cannot object to a state-approved Clean Water Act permit; all the Road Commission is saying is that the EPA cannot object for arbitrary and capricious reasons. The EPA says that it can. From the agency's perspective, its rejection of the state's plan for the road is unreviewable in court and cannot even be challenged in court.

In other words: the king will not be questioned by the serfs.

The Road Commission rejects that interpretation of the law. The EPA's veto of the road project is a final decision that has legal consequence. Seen properly, the Administrative Procedure Act allows for the veto to be reviewed in court to consider whether the EPA decision was arbitrary and capricious.

Two recent Supreme Court precedents, *Sackett v. EPA* and *Army Corps of Engineers v. Hawkes*, suggest the Road Commission is right. In those opinions, the high court held unanimously that final agency decisions in the Clean Water Act context are reviewable in court. To hold otherwise, the court said, would allow for federal agency “strong-arming” of regulated parties.

The Road Commission knows exactly how strong-arming feels: they had a permit to build a road, but the EPA took away that permit and demanded the commission restart the permitting process, which can take years and costs hundreds of thousands of dollars. That’s local taxpayer money down the drain, to anyone seeing the dispute through the lens of common sense.

The people of Marquette County and the state of Michigan know best how to protect their waters and provide for infrastructure, and Congress explicitly gave them that decision-making authority in the Clean Water Act. But EPA bureaucrats high-handedly overruled both Congress and the people of Michigan by nixing the state plan for CR 595. This case presents the Supreme Court with another chance to remind the EPA — and all federal agencies — that their job is to implement the will of Congress and the American people, not to ignore it.

Mark Miller is a senior attorney for Pacific Legal Foundation, which litigates nationwide to achieve court victories enforcing the Constitution’s guarantee of individual liberty.

Forbes: Can California Be The U.S. Auto Industry's New Best Friend?

<https://www.forbes.com/sites/energyinnovation/#6652a4f3738e>

By Margo Oge- October 22, 2018

Margo Oge served the US EPA for over 32 years and was director of EPA's Office of Transportation and Air Quality from 1994-2012.

on fuel economy standards, California could be the auto industry's new best friend

Trump's fuel economy rollback will also diminish the global competitiveness of domestic car companies

A new report issued by the Intergovernmental Panel on Climate Change calls on nations to take "unprecedented" actions to cut their carbon emissions over the next decade to prevent a world of irreversible food shortages, life-threatening heat waves, droughts, coastal flooding and wildfires.

Sadly, it comes on the heels of the Trump administration's proposal to roll back the 2025 greenhouse gas (GHG) standards for cars and light trucks that were on track to double United States fuel economy and dramatically reduce U.S. carbon pollution - a move that could impose \$450 billion in new costs on consumers.

President Donald Trump and Vice President Mike Pence meet with automobile industry leaders. THE WHITE HOUSE

But while loosening regulations may seem like an economic driver for the auto industry, rolling back fuel economy standards could cost domestic auto manufacturers their competitiveness in more than 40% of the U.S. auto market - and some of the biggest foreign auto markets. It may seem ironic to expect economic upside from stricter regulations, but on fuel economy standards, California could be the auto industry's new best friend .

Rolling back regulations could throw automaker sales in reverse

The current 2025 regulations were developed in 2012 jointly by the U.S. Environmental Protection Agency (EPA), which is responsible for reducing greenhouse gas emissions and the National Highway Traffic Safety Administration (NHTSA), which is responsible for setting fuel economy standards. The Economist characterized the standards as one of leading global policy actions to slow global warming.

Beyond increasing emissions, Trump's fuel economy rollback will also diminish the global competitiveness of domestic car companies , the very group Trump says he's trying to help. Automakers' best chance to avoid falling behind the rest of the world lies in a new partnership with California, which has led the nation with its stringent vehicle standards, and which 12 other states and Washington D.C. follow.

It Takes An Ecosystem: Transportation-Focused Executives Turn To Outside Providers, Customers, Suppliers And Competitors

This unusual situation began developing after the 2016 election. Around that time, the EPA and NHTSA jointly published a report confirming that compliance with the 2025 standards would cost even less than originally expected. But the auto industry asked the Trump administration for a review of the standards. He obliged and told both agencies to look at relaxing the existing standards.

What followed was a new low point for the EPA. While both the EPA and NHTSA signed off on the August 3rd proposal, the vast, technical emissions expertise of the EPA played virtually no role in the analysis. Acting EPA Administrator Andy Wheeler ignored his top career scientists and engineers, siding with the NHTSA analysis, and signed off.

Legal and economic consequences for domestic automakers

The result is a Trump administration proposal that is not only built on faulty analysis, but one that relaxes regulations beyond what some automakers expected. And it sets up serious legal and business consequences.

First, a 2007 Supreme Court ruling determined that EPA not only has the authority to set greenhouse gas emission standards but that it is obligated to do so - no matter what NHTSA does. The fact that NHTSA “sets mileage standards in no way licenses EPA to shirk its environmental responsibilities,” wrote the court, “EPA has been charged with protecting the public’s “health” and “welfare,” 42 U. S. C. §7521(a)(1), a statutory obligation wholly independent of DOT’s mandate to promote energy efficiency’.

Clearly, EPA leadership has completely abdicated the obligation created by this Supreme Court ruling. So California, along with Washington D.C. and 16 other states representing 43% of U.S. car sales, is suing the administration against any rollback of the existing standards. These states stand a reasonable chance of winning and automakers are looking at three to four years of regulatory uncertainty and protracted litigation.

Second, this proposal will push domestic automakers in one direction while the biggest markets in the world quickly head in another. By disincentivizing the development of clean technologies, U.S. automakers could fall back into the bad habits that nearly destroyed the industry in 2009 and cost taxpayers some \$9.3 billion in bailouts.

After 2020, GHG standards for personal vehicles in the European Union and China - the world’s other large markets - will diverge rapidly from U.S. standards. The EU recently voted to reduce greenhouse gas emissions from cars by 40% by 2030, and China is seriously considering banning gasoline-powered vehicles entirely.

Domestic automakers now face a dilemma: They can choose to live with years of regulatory uncertainty, or they can seek a compromise with the states suing them.

Finding friends in unlikely places

Mary Nichols, the chairwoman of the California Air Resources Board, is considering a formal public counter offer to the Trump administration’s proposal. Last week she asked car manufacturers to present detailed information on their future product plans, and explain why they can’t meet the existing standards and what type of relief they are looking for.

California’s leadership can help car manufacturers find a solution to their current dilemma without the courts tying their hands. If the auto industry asks for reasonable flexibilities to meet the 2025 standards, California will listen. California and the auto industry should be able to find a constructive path out of the quagmire – but the next few months may offer the last opportunity to do so.

The clock is ticking as the comment period ends October 26th. If the auto industry is serious about a deal that will help avoid years of litigation and uncertainty, and also help achieve the unprecedented carbon emissions reductions needed to avoid the worst impacts of climate change, California can be its new best friend.

Margo Oge served as the director of EPA’s Office of Transportation and Air Quality from 1994-2012 and is the author of “Driving the Future: Combating Climate Change with Cleaner, Smarter Cars.”

Earth.com: What happens when the EPA doesn't protect the environment?

<https://www.earth.com/news/epa-protect-environment/>

By Kay Vandette- October 22, 2018

The Environmental Protection Agency (EPA) was established in 1970 in direct response to increased, widespread concern about the environment.

At the time when President Nixon first established the agency, photographers hired by the EPA documented the overwhelming pollution problems facing America at the time. The EPA was tasked with monitoring, regulating, and enforcing environmental protection.

But how well has the agency upheld those key cornerstones of sweeping environmental legislation, and what is the EPA's role when it comes to the balance between economic gains versus environmental protections?

The EPA has certainly made the news recently, and mostly because of concerns that the Trump Administration is working to roll back environmental protections set in place by the Obama Administration to help combat climate change.

Taking a closer look at the early beginnings of the EPA and its actions throughout different administrations can provide us with a better picture of the government environmental agency to see if it has stayed true to its original mission.

As you'll soon see, Trump's moves to rollback EPA policies and regulations is not the first time the agency has been on the chopping block for budget cuts and policy rollbacks.

A press release written by William D. Ruckelshaus, the first Administrator for the EPA, highlights not only why the EPA was formed but also what Ruckelshaus saw as the key mission of the agency.

The press release reads:

"It [the EPA] has no obligation to promote agriculture or commerce; only the critical obligation to protect and enhance the environment. It does not have a narrow charter to deal with only one aspect of a deteriorating environment; rather it has a broad responsibility for research, standard-setting, monitoring and enforcement with regard to five environmental hazards; air and water pollution, solid waste disposal, radiation, and pesticides."

Ruckelshaus was later chosen to head the FBI as the acting director, and when Nixon ordered Ruckelshaus to fire the special prosecutor who was investigating Watergate, he refused and was consequently fired.

It wasn't long before the idyllic mission statement of the EPA was strongly contested.

The agency began receiving pushback from industries and businesses, which eventually forced the EPA to take economic issues and risks assessment into consideration, according to Adam Rome, an environmental historian who spoke with The Atlantic.

By all accounts, the EPA's first few years were successful, as the agency worked diligently to clean up America's pollution.

Those first few years of the EPA gave us the Clean Air Act and the Clean Water Act, legislation that has been instrumental in regulating water and air quality and limiting pollutants.

A few presidential terms later, Ronald Reagan was elected into office as the 40th President of the United States, marking the beginning of a particularly tumultuous chapter of the EPA's history.

When Reagan took office, the EPA was going through several scandals and, reminiscent of current events, then EPA Administrator Anne Gorsuch was forced to resign.

Gorsuch, the first female Administrator in the history of the EPA, seemed to do everything in her power to essentially gut the agency to a shell of its former self. Budget cuts, personnel changes, and gross mismanagement of the Superfund cleanup program were Gorsuch's legacy.

The Superfund Cleanup Program had been established by Congress to help clean up hazardous waste, and the program originally identified around 14,000 potential dumping grounds.

However, of these, only five had work done, and Gorsuch was cited for contempt of Congress for refusing to turn over subpoenaed documents on different sites, according to Newsweek.

In 1983, the Washington Post had this to say of Gorsuch's budget cuts:

"The cuts are so massive that they could mean a basic retreat on all the environmental programs of the past 10 years, according to agency sources and administration critics. At the same time, divisions between Administrator Anne M. Gorsuch and career agency staff over her approach to policy making have all but reached open warfare."

After Gorsuch left, Reagan, in a move to restore the public's faith and trust in the EPA, brought back William Ruckelshaus, according to a piece in the Conversation.

Even amidst Reagan's famed tax cuts, Ruckelshaus was able to implement environmental protections and steer the EPA out of its mired, scandalous past.

Under the direction of the Ruckelshaus, the EPA laid the groundwork for some crucial environmental and human health and safety measures including finding ways to protect the ozone layer and banning asbestos.

According to the Conversation, Ruckelshaus' second involvement with the agency proved that environmentalism still had a place and voice in a conservative, Republican administration, something that we could maybe learn from today.

Let's jump forward in time a couple of decades to the early 2000s, when climate change began picking up steam and with it, political discourse about the EPA's role in mitigating its impact.

In 2007, the Supreme Court ruled that the EPA had to act on previous findings (by the EPA itself) that greenhouse gas emissions were a form of pollution and as such endanger human health.

But today, Trump, Scott Pruitt, and now Andrew Wheeler are careful in their discourse on climate change to help push their own agendas without outright denying the impacts of climate change.

For example, the rolling back of coal pollution standards and allowing states to set their own coal plant emission limits chips away at greenhouse gas emission protections.

To the outside eye, and for many concerned environmental groups and politicians, these policies go in the face of the EPA's mission and what it was legally mandated to do, regulate CO2 emissions which are a threat to public health and the environment.

Andrew Wheeler also recently disbanded EPA committee panels charged with reviewing air quality standards, particulate matter, and ozone levels.

Unbiased and thorough vetting of climate and pollution research is crucial for deciding policy, and by disbanding certain review committees, it could set a dangerous precedent for biased and uninformed policy.

The EPA, like any government agency, has not been without its problems and is also largely influenced by whichever administration currently holds office.

The agency can and will only ever be as good as both its administration and its administrator. When these facets act together in the service of private interests rather than the health and safety of the American public and environment, the original aim of the EPA is reduced to a punchline.

And unless more is done by Wheeler and the EPA to work with energy companies, limit emissions, protect the environment, and shift the focus to renewables, this chapter in the EPA's history could be looked at decades from now as a major low point of choosing to act against the well-being of the American people and the environment.

E&E News: White House pressured EPA to favor industry over climate

<https://www.eenews.net/climatewire/2018/10/22/stories/1060103909>

Maxine Joselow- Monday, October 22, 2018

White House officials urged EPA to make changes to an Obama-era methane rule that would maximize cost savings for the oil and gas industry while allowing the release of more planet-warming emissions, government documents show.

The exchange came this past spring and summer, as EPA was working to relax a 2016 rule stipulating how frequently oil companies must check for and repair methane leaks.

The White House Office of Information and Regulatory Affairs repeatedly pressured EPA to relax inspection requirements, according to hundreds of pages of documents posted last week on Regulations.gov and first reported by Bloomberg.

But some EPA officials worried that easing the requirements would allow more methane to enter the atmosphere. Methane is roughly 30 times more potent as a heat-trapping gas than carbon dioxide.

In May, EPA officials presented an interagency working group with a slideshow detailing their initial proposal for relaxing the Obama administration's New Source Performance Standards for new and modified oil and gas facilities.

The proposal would have saved the industry an estimated \$246 million over six years.

In subsequent correspondence, OIRA officials pushed EPA to increase the projected cost savings to \$484 million.

The OIRA officials argued that greater cost savings could be achieved through yearly compressor station inspections, rather than quarterly inspections.

Less frequent inspections were on the wish list of several oil and gas industry groups. Indeed, "monitoring frequency" was the first item on the agenda of a May meeting between Trump administration officials and representatives of the American Petroleum Institute, Chevron Corp., Royal Dutch Shell PLC and other oil companies.

EPA initially pushed back on OIRA's suggestions, noting that they could double the amount of methane entering the atmosphere.

"While Option 3 provides for the highest net benefits, it also provides the highest amount of forgone emission reductions," EPA said.

By July, EPA had begun implementing some of OIRA's suggested changes, the documents show.

In September, EPA released its proposed revisions to the Obama-era methane rule, which required industry to monitor wells on an annual basis and low-production ones every other year (Greenwire, Sept. 11).

The revelations come as the Trump administration touts the cost savings from its deregulatory agenda.

The White House on Wednesday unveiled its fall 2018 regulatory plan, which says that federal agencies achieved \$23 billion in net regulatory cost savings in fiscal 2018. A senior administration official, in a conference call with reporters, described the past two years as an "amazing turnaround" (Greenwire, Oct. 17).

Amit Narang, regulatory policy advocate with Public Citizen, said the documents show that the White House is bent on helping industry at the expense of public health and the environment.

"These documents show very clearly that OIRA only had maximizing cost savings to the oil and gas industry in mind, and really wasn't concerned about the massive amount of methane emissions it would lead to," Narang said. "That will have an effect not only on climate change, but on the health of Americans."

EPA is now soliciting public comments on the methane proposal through Dec. 17. A final rule is expected next year.

Transparency

The documents underscore the need for transparency regarding communications between agencies and the White House regulatory affairs shop, sources said.

"This exchange demonstrates the importance of transparency in administrative policy development," Janet McCabe, acting EPA air chief under former President Obama, said in an email.

Not all federal agencies are required to publicize their communications with the White House. EPA is required to do so through a special provision in the 1990 amendments to the Clean Air Act. That's why the documents about the methane rule were posted online at Regulations.gov, where they were accessible to E&E News and other media outlets.

"All of this is coming out because of this really unique provision in the Clean Air Act," Narang said. "The provision says that if EPA is doing regulations under the Clean Air Act and OIRA is reviewing those regulations, all of those communications and changes need to be included in the docket."

James Goodwin, senior policy analyst with the Center for Progressive Reform, echoed those sentiments.

"This shows the importance of whoever included those provisions in the Clean Air Act amendments," Goodwin said. "And that's exactly what they had in mind, because agencies weren't disclosing stuff from OIRA review before that."

New legislation could affect the transparency of the OIRA review process.

Sen. Elizabeth Warren (D-Mass.) this summer introduced the "Anti-Corruption and Public Integrity Act," S. 3357.

Although the bill is largely focused on ethics in law enforcement, it also contains a small regulatory reform section aimed at increasing "disclosure of intergovernmental rule changes

High Plains Journal: Trump orders EPA to start year-round E15 regulatory process

http://www.hpj.com/ag_news/trump-orders-epa-to-start-year-round-e-regulatory-process/article_d3c73816-d2f4-11e8-8808-970923fa37c6.html

By Larry Dreiling October 22, 2018

President Donald Trump Oct. 9 ordered the Environmental Protection Agency to begin the regulatory process that would lead to year-round sales of E15, or 15 percent blend of ethanol in gasoline.

Currently, E15 sales are prohibited during summer months. Critics of the increased amounts of ethanol say higher amounts of ethanol blends will increase ozone pollution in warm weather.

EPA will have to move fast to accomplish Trump's goal, given the federal rule-making process by June 1, the usual regulatory review cut-off date.

Trump told reporters of his decision as he left the White House destined for Council Bluffs, Iowa, for a campaign rally to boost Republican candidates.

"So we're heading out to Iowa, where we have a big statement to make, as you know, on ethanol and for our farmers," Trump said as he prepared to board Marine One. "Likewise, we're taking care of our refineries and our refiners, and they've done a fantastic job. But we want to get more fuel into the system, and this is a great thing.

"But they're great for our farmers, and it was a promise that I made during the campaign. And, as you know, I keep my promises. So that's the way it is."

Later when asked about the petroleum industry's opposition to E15, Trump added, "Well, I want more industry. I want more energy. I want more, because I don't like \$74. (Crude oil's price per barrel the day of the announcement.). It's up to \$74. And if I have to do more, whether it's through ethanol or through another means, that's what I want. I want low prices. So I'm OK with it.

"You know, it's an amazing substance. You look at the Indy cars—they run 100 percent on ethanol. And you look at other certain forms of very modern energy, it's ethanol-based, and that meant a lot to me.

"But what it really means is we're helping our farmers and we're also going to be helping our refiners, and you know that too—because they're both very important. But the farmers have been so terrific, and they produce great product. So I think it's going to be great."

In a reference to those concerns that E15 causes ozone pollution in summer, Trump said, "And it has no impact—12 months. That was a misnomer. There is no negative impact. In fact, there are those that say, you do this and the air is cleaner. I agree with that. But they say, you go 12 months instead of eight—you go 12 months, and the air is actually cleaner."

Secretary of Agriculture Sonny Perdue joined Trump in the Oval Office for the announcement, Politico said, along with Republican Sens. Chuck Grassley and Joni Ernst of Iowa, Deb Fischer of Nebraska and John Thune of South Dakota, along with Rep. David Young, R-IA.

The article made no mention of Environmental Protection Agency Administrator Andrew Wheeler, who will be in charge of the rulemaking process of allowing the year-round sales of E15.

Perdue said in a statement, "This is another case of 'Promises Made, Promises Kept' for President Trump."

"Expanding the sale of E15 year-round is sound policy for a variety of reasons," Perdue said. "Consumers will have more choices when they fill up at the pump, including environmentally friendly fuel with decreased emissions."

"It is also an excellent way to use our high corn productivity and improved yields. Year-round sale of E15 will increase demand for corn, which is obviously good for growers. This has been a years-long fight and is another victory for our farm and rural economies. Along with E15 expansion, we also welcome much-needed reforms to the RIN market, which will also increase transparency.

"President Trump has again made it abundantly clear that he is unleashing the full potential of American energy production as we retake our rightful place as the world's leader."

Agriculture reacts

American Farm Bureau Federation President Zippy Duvall said in a statement, "I thank President Trump for his steadfast support of E15 expansion, while also acknowledging the close working relationship we've developed with Acting EPA Administrator Andrew Wheeler. I look forward to working with the EPA to see rulemaking and year-round E15 completed by the driving season of 2019."

"AFBF applauds the president for his support of homegrown biofuels and upholding the campaign promises made to rural America."

National Farmers Union President Roger Johnson said, "Allowing use of E15 gasoline year-round is an important step toward realizing a renewable energy future for transportation fuel sector, and we're appreciative of the administration's support for higher level blends of ethanol. At the same time, this 'compromise' does nothing to address the billions of gallons of ethanol demand that were lost as a result of the EPA's RFS waiver handouts to oil refiners.

"Family farmers are in significant financial distress right now, and the administration's surreptitious biofuel demand destruction has made matters worse. The bottom line here is that if the president wants to do right by his promises to support family farmers and American grown biofuels, his administration must support net increases in biofuel use. Even with an E15 waiver, family farmers are at a net loss in biofuel demand over the past two years."

National Corn Growers Association President Lynn Chrisp thanked Trump and said that regulations requiring retailers to stop selling E15 in the summer are outdated.

"Earlier this year, the president correctly described this barrier as 'unnecessary' and 'ridiculous'," said Chrisp. "The president also faced pressure to fix this regulatory problem through a bad deal that would have been harmful to farmers. He made the right decision to move this common-sense regulatory relief on its own, and farmers are very grateful."

Growth Energy CEO Emily Skor said, "We thank President Trump for delivering on his promise to rural America by lifting the summer restriction on E15 sales."

"He answered the call from American farmers by removing the single most important barrier to growth in higher biofuel blends.

"This announcement is great news for farmers, biofuel workers, retailers and consumers everywhere who want to enjoy cleaner, more affordable options at the fuel pump. This is a critical step toward giving American motorists higher-octane options at a lower cost all year long.

"We sincerely appreciate President Trump's steadfast commitment to rural America. Nationwide E15 sales promise to drive demand for 2 billion bushels of American corn and help restore growth in rural communities hit hardest by the downturn in farm income."

Skor said Growth Energy expects that the oil industry and environmental groups will bring litigation against the year-round sales, but that she agrees with the Trump administration that EPA will be on firm ground when the cases reach the courts.

Renewable Fuels Association President and CEO Geoff Cooper said, "Securing fair market access for E15 and other higher blends has been our top regulatory priority for several years, and we are pleased that the first official step in this process is being taken. When markets are open and competitive, American consumers win."

Critics speak out

The American Petroleum Institute said the Trump administration's decision to allow for year-round sales of higher ethanol E15 blended gasoline "is a bad deal for consumers."

"Putting a fuel into the marketplace that the vast majority of cars on the road were not designed to use is not in the best interest of consumers," said API President and CEO Mike Sommers. "Vehicle compatibility tests have shown that high ethanol levels in gasoline can damage engines and fuel systems."

"EPA has previously stated that it does not have the legal authority to grant the E15 waiver, and we agree with that assessment," Sommers said. "The industry plans to aggressively pursue all available legal remedies against this waiver."

ActionAid USA said, "This is an attempt to buy off farmers with a giveaway to big ethanol. More corn ethanol isn't going to address the real challenges farmers are facing, or make up for the lack of a farm bill.

"It will continue to worsen the harm corn ethanol is doing to the environment. Our system of agriculture is broken. Instead of giving in to the demands of agribusiness and big corporations for more ethanol, we need to build a system that works for farmers, eaters and the planet."

Breitbart: EPA Reverses Obama Era Last Minute Uranium Mining Regulations

<https://www.breitbart.com/politics/2018/10/20/epa-reverses-obama-era-last-minute-uranium-mining-regulations/>

By Penny Starr- October 20, 2018

The United States Environmental Protection Agency (EPA) announced on Friday that it is withdrawing the pending rulemaking for uranium mining and thorium mill tailings.

The regulations were put in place on Jan. 19, 2017, just hours before Barack Obama left office and President Donald Trump's inauguration.

"In a rush to regulate during the waning hours of the previous administration, the agency proposed a regulation that would have imposed significant burdens on uranium miners and the communities they support," Acting Administrator Andrew Wheeler said in the press release announcing the decision.

Rep. John Barrasso (R-WY), chairman of the Senate Environment and Public Works Committee, praised the agency's move.

"Today's announcement is the right decision," Barrasso said. "The Nuclear Regulatory Commission – our nation's principal nuclear regulator – has said there is no health or safety justification for EPA's midnight rule."

"The NRC has regulated in situ uranium recovery for nearly 40 years," Barrasso said. "The agency has never found an instance of groundwater contamination that would be addressed by this rule."

"I'm glad the Environmental Protection Agency has acknowledged this reality," Barrasso said. "I applaud it for withdrawing this punishing and unnecessary regulation on America's uranium producers."

The proposed rule expressed concerns from federal partners, including the Nuclear Regulatory Commission (NRC) and stakeholders, about the agency's legal authority under the Uranium Mill Tailings Radiation Control Act of 1978.

"Today's action underscores that EPA believes existing regulatory structures are sufficient at this time to ensure the protection of human health and the environment at current uranium in-situ recovery (ISR) activities," the press release stated. "Today's withdrawal has no impact on EPA's regulation of radiation."

PBS News: Why radiation protection experts are concerned over EPA proposal

<https://www.pbs.org/newshour/nation/why-radiation-protection-experts-are-concerned-over-epa-proposal>

By — Ferenc Dalnoki-Veress, Oct 20, 2018 1:49 PM EDT

The Takata Corporation sold defective air bag inflators that resulted in the death of 16 people in the United States and a massive recall of cars. While it was rare for the air bags to fail, the brutal consequences of this defective device in even minor collisions was easy to recognize. But the effects of low-dose ionizing radiation – high energy waves or particles that can strip electrons from atoms and physically damage cells and the DNA within – on people's health is much harder to see, and prove.

When the Associated Press reported that the Trump administration's Environmental Protection Agency solicited the advice of a controversial toxicologist, Edward Calabrese, to consider changes to how it regulates radiation, it sent shock waves through the radiation protection community. Calabrese is well known for his unconventional and outlying view that low-dose radiation is not dangerous.

I'm a physicist at the James Martin Center for Nonproliferation Studies at the Middlebury Institute of International Studies who focuses on risks of emerging technology. I am keenly aware of the danger of exaggerating the effect of ionizing radiation, which has led to a phobia of radiation and stigma toward those who suffered radiation exposure. However, underestimating these effects can be just as detrimental. And doing so may only be in the interest of certain stakeholders that have the ear of the current administration.

High-dose radiation kills; what do low doses do?

It is important to note that the health effects of high doses of radiation are well established. We all know about the horrific effects based on studies of the populations of Hiroshima and Nagasaki after the atomic bombs were dropped. Then there was also the recent case of Russian defector Alexander Litvinenko who quickly sickened and died 23 days after being poisoned with the radioactive isotope polonium-210 in 2006.

However, the effects of low doses of radiation are not well understood. Part of the reason is that these low doses are difficult to measure.

Current understanding of the health effect of radiation relies primarily on a decades-long study of the survivors of the Hiroshima and Nagasaki atomic bomb attacks. That population was exposed to a one-time large dose of radiation, with individual exposure dependent on where they were at the time of the explosion.

In those high-dose radiation studies, researchers found that there is a proportionate relationship between dose and effect. The way the EPA gauges the effect of low doses of radiation draws from these studies as well as studies following other incidents. The current guidelines for the EPA adhere to what is called the linear no-threshold (LNT) model, which implies that even low doses of radiation have an effect across a population. Some scientists dubbed it to be a "reverse lottery," where an unlucky few within a given population will get cancer during their lifetime due to their exposure to radiation.

There have been questions as to whether the LNT model is appropriate for measuring cancer risk from low doses of radiation. That's because when the radiation-induced cancer rate is low, and the sample size is small, there is more statistical uncertainty in the measurement. This allows more wiggle room in putting forward alternative dose-response models such as Calabrese's, which have little scientific backing but that promise financial benefits for regulated industries.

Overall, the general feeling in the radiation protection community is that for now until new research proves otherwise, the LNT model, because of the lack of understanding of the effect of low doses, is the prudent model to use to set protective limits.

Also, not being able to determine the effect of a low dose of radiation is a problem in measurement, not in the underlying linear threshold model. As doses of radiation decrease, fewer cases of radiation-induced cancers occur, making it more difficult to identify those specific cases.

This is especially true given that cancer is already a common occurrence, making it nearly impossible to disentangle radiation exposure from many other potential cancer risk factors. This is where the analogy with Takata air bags fails, because it is not possible to prove that a specific cancer death is due to ionizing radiation, but this does not make it any less real or significant.

Who profits if radiation guidelines change

The EPA issues guidance and sets regulations to “limit discharges of radioactive material affecting members of the public” associated with the nuclear energy industry. The EPA defines what radiation levels are acceptable for a protective cleanup of radioactive contamination at Superfund sites. It also provides guidance on the levels of radiation exposure that would trigger a mass evacuation. It is not surprising that certain stakeholders would welcome modifications in EPA assessment of low-dose radiation exposure given the high costs involved in preventing or cleaning up sites and in compensating victims of such exposure.

Recently, the National Council on Radiation Protection and Measurements (NCRP) – scientists who provide guidance and recommendations on radiation protection under a mandate from Congress – supported the LNT model. NCRP analyzed 29 epidemiological studies and found that the data was “broadly supportive” of the LNT model and that “no alternative dose-response relationship appears more pragmatic or prudent for radiation protection purposes.”

In fact, the National Academies’ Nuclear and Radiation Studies Board, the International Council on Radiation Protection, and other international bodies and regulators all use the LNT model for guidance and radiation protection.

From my perspective, as someone who has worked with radioactive sources, the EPA should be cognizant of the warning by the late Harvard sociologist Daniel Yankelovich that just because an effect can’t be easily quantified does not mean it is not important or does not exist.

Green Car Report: Deadline for comments on EPA fuel-economy rollback is Tuesday

https://www.greencarreports.com/news/1119481_deadline-for-comments-on-epa-fuel-economy-rollback-is-tuesday

Eric C. Evarts- Oct 22, 2018

EPA Acting Administrator Andrew WheelerEPA Acting Administrator Andrew Wheeler

Readers who want to make their voices heard in objection to (or support of) the EPA proposal to freeze fuel economy standards have until tomorrow to get their comments in.

The EPA proposed in early August to undo Obama-era rules requiring cars to reach increasingly stringent fuel-economy targets through 2025. Called the Safer Affordable Fuel-Efficient Vehicles Rule, the proposal would freeze the standards at 2020 levels through 2026.

Although cars have already become more efficient, the upcoming years were expected to extend such efficiency gains to light trucks, such as pickups and large SUVs, which have captured an increasing number of American car sales in recent years.

Not only will the looser standards result in more emissions from gas (and diesel) cars and trucks produced from 2021 to 2026, the proposal seeks to strike down the California law that has resulted in the production of electric cars to be sold in the state and 12 others.

California and 16 other states have already sued the EPA and NHTSA over the proposal.

As with most federal regulations, the proposal requires a 60-day comment period before the executive branch can implement it. That 60 days expires on Tuesday (tomorrow.)

The EPA held three public hearings in September to gather public comments, but its website is still open to receive further comments until the deadline expires.

Public comments get heard, according to former EPA officials. Former head of the EPA's Office of Air Quality and Transportation, Margot Oge, told the New York Times in September that personal stories leave a lasting impression. The comments also become part of the legal record when a regulation is challenged in court—as this one already has been.

We know our readers love to weigh in on issues. This opportunity may be more effective than most.

The State- Chemical exposure news trickles out to residents

<https://www.thestate.com/news/business/national-business/article220271165.html>

BY DELLA HASSELLE AND NICK REIMANN- October 21, 2018 12:01 AM

It's been 15 years since Marcia Llewellyn left Norco, a community located next to an industrial complex long known for its distinctive odor, and a place that many residents said had become too polluted to live in.

"That's what I always remember about it — the smell," Llewellyn said as she stood inside her home on Union Street in Montz, a sleepy town along River Road on the east bank of St. Charles Parish. "You know the chemicals from the plants there had to be very strong, with a smell like that."

This month, Llewellyn was shocked to discover her dead-end street in the quiet neighborhood she calls home might carry even more significant health risks.

According to a recent report from the U.S. Environmental Protection Agency, residents in her census tract face the highest risk of breast or lymphoid cancers of anyplace in the country because of emissions of the carcinogen ethylene oxide. The chemical is produced in large amounts at the Union Carbide Corp. plant across the Mississippi River in Taft.

After the report came out, a spokeswoman for Dow Chemical Co., which owns Union Carbide, acknowledged that the company is one of the largest producers of ethylene oxide in the country but said it has "safely produced" it in St. Charles Parish since the company took ownership of the plant in 2001.

However, understanding of the dangers associated with the chemical has changed over time, according to the EPA. It was only categorized as a carcinogen in 2016.

Llewellyn, 58, said she wasn't aware of the EPA's latest National Air Toxics Assessment, which came out in August. And, she said, she didn't think much about chemical exposure when deciding on the best place to live with her sisters, nephews and a year-old baby.

"I mean, I had concerns, but they've always been in the back of my mind," she said.

Indeed, news of cancer risk from the airborne pollutant has been slow to infiltrate many neighborhoods in the River Parishes.

About 10 miles upriver, a small group of activists in St. John the Baptist Parish are more in-the-know about the EPA's latest assessment, which focused on ethylene oxide based on chemical emissions data from 2014.

That's because they mobilized several years ago, when the EPA identified areas around the Denka Performance Elastomer plant in LaPlace as the most at-risk in the U.S. from the "likely carcinogen" chloroprene, a chemical used to make synthetic rubber that has been produced at the plant for decades.

Elsewhere, however, many residents are dubious or even fatalistic when presented with the emissions data — an unsurprising response, environmentalists say, for people accustomed to living in the corridor between New Orleans and Baton Rouge that is known for its reliance on the petrochemical industry.

In areas of St. Charles Parish where the risk is high, many residents seem torn between acknowledging the findings of the air pollution study and defending the chemical companies that employ their friends and family members.

Just a handful of local and state elected officials are starting to question the safety of the air in neighborhoods and schools throughout St. Charles, St. John and Ascension parishes as they dig into the data provided by the EPA study.

Overall, the reaction in the River Parishes stands in stark contrast to the outrage that has erupted in Willowbrook, Illinois, where the Sterigenics International facility produces ethylene oxide, commonly used to sanitize medical equipment, fumigate spices, and make polyester and antifreeze.

There, citizen groups quickly organized, and the political pressure grew so furious that Illinois Gov. Bruce Rauner called for the plant to be shut down.

For his part, Louisiana Gov. John Bel Edwards declined to comment on the EPA study at a press conference earlier this month, saying he had not had a chance to catch up on the issue.

Other elected officials tasked with representing St. Charles and St. John parishes have been equally silent. Of 20 council members, school board members, state representatives and senators contacted about the emissions, only seven responded. All but two said they would have to study the issue further before taking any action.

Environmentalists Wilma Subra of the Louisiana Environmental Action Network and Anne Rolfes of the Louisiana Bucket Brigade called the response "lackluster."

"Shouldn't they have rolled up their sleeves and looked into it by now?" Rolfes asked. "And just imagine how it is for those who live across from these facilities. They get no response."

As for Llewellyn, she believes she shouldn't have to think about air pollution when choosing a place to live.

"Yes, it bothers me," she said. "I would like to live in a safe area. You go outside and breathe the air and you might get sick — that doesn't sit well."

In Louisiana, the Union Carbide Corp. plant is the largest producer of ethylene oxide and has been manufacturing the chemical since the late 1960s.

While the chemical is produced throughout the United States, the highest cancer risk from emissions is across the river from the plant in census tract 601, where Llewellyn lives.

There, scientists say, residents face a cancer risk 700 times greater than the EPA's goal of a 1-in-a-million, and seven times what the agency says is in the "upper limit" of what's acceptable for humans.

While those eye-popping numbers are a surprise for some, they seemed about right to 34-year-old Brad Trepagnier, who has been working at chemical plants since his early 20s.

But the situation is complicated, he said, because the chemical plants drive the economy for the towns most affected by the pollution.

"I've always been at risk, but I guess that's what I get for living close to all these plants," he said. "That's what we choose."

Across the river, Nolan Darensbourg has lived about a mile west of the Union Carbide plant his entire life.

He said he'd be "willing to move" if someone convinces him that ethylene oxide poses a real risk, but he's not yet convinced that his health is in peril.

"If it's proven that it's bringing up cancer and, you know, of course I'm moving," Darensbourg said. "Of course — there's no reason to stay here."

Others say they feel powerless against the industry, and have all but given up trying to fight it.

Nadine Washington can name several friends and neighbors who have been diagnosed with cancer in recent years, and she thinks the pollution had something to do with it.

But she has been in Killona her entire 59 years, in a home she inherited from her grandmother, and can't afford to leave, she said.

"We know they was releasing something that was going to kill us, and one day would have caused some kind of cancer," Washington said. "Ain't nothing we could've did about it. We didn't know how to go about doing anything about it."

Although some residents are quick to express concern and even outrage over the ethylene oxide emissions, few said they have made the effort to call their state legislators, congressional representatives or even local council members.

In the meantime, Sen. Edward Price, a Democrat from Gonzales, is one of the few state elected officials in Louisiana who have expressed willingness to take action after reading the EPA's report.

Price said that he had called on the Louisiana Department of Environmental Quality to work with the EPA on a future ambient air monitoring program in St. Charles and St. John parishes.

"Anytime you have anything like this there is a concern," Price said. "We have to make sure (the companies) are meeting emissions standards and aren't putting an overbearing burden on these parishes."

But officials with the DEQ say that as of now, they have no set plans to test for air quality. First, they're deferring to the EPA to set a national standard for emissions. In the meantime, said Greg Langley, a spokesman for DEQ, "residents don't need to be panicked" by the risk estimates so far.

"I think our message at this point is that even though this change has been made, it's a paper change," he said. "It's a change in a computation."

Officials with the EPA, who based the recent report on data from the chemical plants themselves, have said they may decide to do some monitoring. But even if they do, that process will take time, because first scientists have to figure out just how much of the chemical is permeating the air.

To achieve that, officials have to develop new monitoring techniques. Traditional air quality monitoring, they said, just isn't sensitive enough.

Based on the studies and evidence, the EPA determined that a very small amount of the chemical — just .003 micrograms per cubic meter — could cause a person to develop cancer if they have constant exposure over a lifetime, or 70 years.

"We just don't have anything to measure these emissions," Langley added. "It's essentially zero. If it's down as low as we want, we can't measure it."

Langley also said that official emissions standards have not been updated since ethylene oxide was reclassified as a carcinogen in 2016, so there is no way to "force" chemical companies to reduce their emissions.

In 2016, Dow's Union Carbide plant deliberately released an estimated 30,700 pounds of ethylene oxide into the air; an estimated unplanned 5,100 pounds of the produced gas also escaped into the air, according to an EPA database. The only U.S. industrial facility releasing more ethylene oxide into the air is in Port Neches, Texas.

A spokeswoman for Dow said their emissions have long been within legal limits, and Langley said the plant has been regulated in Louisiana for the last 20 years.

Most government officials who responded said they hadn't fully had a chance to review the EPA's findings, and so couldn't pass judgment on how they might affect their communities or constituents.

"The EPA report is alarming. That's what I have to say," said St. Charles Parish Councilwoman Marilyn Bellock. "I'm assuming we're going to get together as a council and talk about a plan of action."

To be sure, there are activists who are trying to organize residents in the most affected neighborhoods.

At a recent meeting held just blocks from Evonik Materials Corp. in Reserve, activist Robert Taylor called the EPA's recent report "devastating." The St. John Parish plant also produces ethylene oxide.

"For me it's hard to understand how this could take place," said Taylor, president of the Concerned Citizens of St. John. "Where is the government? Where are the regulatory people? Where are the agencies that are supposed to be protecting us from these people?"

He added: "It seems to me that they've completely abandoned us and that they're in collusion with the petrochemical plants. They're not regulating these people. How could this go on?"

Members of the group have long complained about health problems ranging from cancer to rashes and respiratory illnesses, and many were quick to blame the neighboring plants.

Their goal, they say, is to create a new group across the River Parishes that will be politically influential enough to field candidates in the 2019 legislative elections.

"The people are very disturbed," said Shondrell Perrilloux, a 40-year-old contractor. "Our government appears to be failing us. Their reactions are not as curious and as emboldened and concerned as the citizens' are."

The Hill: Greens challenge Trump's rollback of coal ash standards

<https://thehill.com/policy/energy-environment/412524-greens-challenge-trumps-rollback-of-coal-ash-standards>

BY TIMOTHY CAMA - 10/22/18 10:48 AM

Environmental groups are suing the Trump administration for rolling back parts of a major regulation governing how companies store coal ash.

The groups, led by Earthjustice, filed their lawsuit Monday against the Environmental Protection Agency (EPA) in the U.S. Court of Appeals for the District of Columbia Circuit.

The original 2015 rule from the Obama administration was the first national regulation regarding disposal of coal ash, a black sludge left over from burning coal that contains concentrated levels of heavy metals like arsenic, cadmium and chromium. Coal ash storage ponds are often adjacent to waterways, since coal-fired power plants need cooling water.

The amendments, rolled out in July, give more time for coal plant owners to clean up certain coal ash ponds that are leaking, and gives states new power to exempt companies from certain pollution-monitoring requirements.

"The risk that legacy impoundments and insufficiently lined coal ash ponds pose is too great to let another hurricane season go by without addressing the problem," Thomas Cmar, the lead Earthjustice attorney in the case, said in a statement.

"The dam breach at the Sutton Plant that spewed toxic coal ash into the Cape Fear River in the wake of flooding from Hurricane Florence should make it clear that there's no time to waste," he said, referring to an incident last month in which flood waters moved an unspecified amount of coal ash from a closed power plant into a North Carolina river. State tests later found that pollutant levels in the river had not exceeded state maximums.

"Throughout the country, in the absence of adequate regulation by EPA, coal ash has been irresponsibly disposed of," said Larissa Liebmann, staff attorney at the Waterkeeper Alliance, another party to the case. "This leaves communities and waterways vulnerable to long-term contamination, as well as spills like we saw in North Carolina with Hurricane Florence. EPA needs to stop catering to industry and start protecting the public."

The EPA did not respond to a request for comment.

But in rolling out the changes in July, acting EPA head Andrew Wheeler said they would provide necessary "flexibility" for states and companies.

"These amendments provide states and utilities much-needed flexibility in the management of coal ash, while ensuring human health and the environment are protected," he said. "Our actions mark a significant departure from the one-size-fits-all policies of the past and save tens of millions of dollars in regulatory costs."

The EPA estimated that the changes would save up to \$31.4 million per year, from lower compliance costs for companies.

Some of the changes were mandated by Congress in a 2016 law.

In their statement, green groups highlighted an August ruling by the D.C. Circuit Court that found that some parts of the original 2015 rule were inadequate. Specifically, the judges said the EPA should not have exempted coal ash ponds at closed plants from certain standards, nor should it have let some unlined ponds remain.

The EPA said it is planning to propose further changes to the coal ash in the future.

--This report was updated at 11:24 a.m.

Common Dreams: Environmental Groups Challenge Trump Administration Coal Ash Rule Rollback in Court

<https://www.commondreams.org/newswire/2018/10/22/environmental-groups-challenge-trump-administration-coal-ash-rule-rollback-court>

Thom Cmar- October 22, 2018

In wake of recent court decision, EPA's watering down of coal ash regulations on weak footing

WASHINGTON - Today, Environmental groups filed a petition for review in the U.S. Court of Appeals for the D.C. Circuit challenging an EPA rule designed to gut coal ash disposal regulations that provide environmental safeguards for communities living near toxic coal ash waste dumps.

In March of 2018, the EPA proposed the rollbacks in response to an industry petition to the Trump Administration. The rule was finalized in July, and modifies the Obama-era Coal Ash Rule from 2015. Under the Trump Administration changes, power plant owners have more time to clean up leaking coal ash disposal sites that have been shown to have contaminated groundwater. The new rule also allows state-run coal ash permit programs to include loopholes such as allowing states to waive groundwater monitoring requirements under certain circumstances.

A recent court decision casts serious doubt on the legality of these rollbacks. In August, the D.C. Circuit ruled in favor of environmental groups' lawsuit challenging that the original Obama-era rule was unlawfully weak in several key respects. In particular, the court struck down provisions of the 2015 Coal Ash Rule that exempted impoundments at closed coal plants and allowed coal ash impoundments that are unlined or only underlain by inadequate clay liners to continue to operate. The EPA must now draft rules to address more than 100 "legacy" coal ash ponds at retired coal plant sites. The EPA is also now required to address the closure of over 600 unlined or clay-lined coal ash ponds in response to the court's decision.

"The risk that legacy impoundments and insufficiently lined coal ash ponds pose is too great to let another hurricane season go by without addressing the problem," said Thomas Cmar, deputy managing attorney for the coal program at Earthjustice. "The dam breach at the Sutton Plant that spewed toxic coal ash into the Cape Fear River in the wake of flooding from Hurricane Florence should make it clear that there's no time to waste."

"Throughout the country, in the absence of adequate regulation by EPA, coal ash has been irresponsibly disposed of," said Larissa Liebmann, staff attorney at Waterkeeper Alliance. "This leaves communities and waterways vulnerable to long-term contamination, as well as spills like we saw in North Carolina with Hurricane Florence. EPA needs to stop catering to industry and start protecting the public."

"The Trump EPA is a rogue agency, out of step with both its mission and the law," said Environmental Integrity Project attorney Abel Russ. "The courts are telling EPA that the coal ash rule is not strong enough, and meanwhile EPA is trying to weaken the rule. It's absurd. The American people deserve better."

Andrew Rehn, water resources engineer for the Prairie Rivers Network said, "Illinois needs the US EPA to step up it's protections on coal ash, not back away from them. Illinois's only National Scenic River is constantly being polluted by seepage from a coal ash pit at a closed power plant, and it's not the only waterway in Illinois with coal ash sitting on the riverbank."

"It's clear the Trump administration doesn't value protecting human health, especially if corporate special interests could be slightly inconvenienced," said Jennifer Peters, National Water Programs Director for Clean Water Action. "This

outrageous scheme would let coal plants put communities, families, and water at risk with impunity. It's time for EPA to listen to the courts and the public and strengthen, not weaken coal ash safeguards."

"It's clear that former coal lobbyist and current acting EPA Administrator Andrew Wheeler has an open door policy when it comes to the coal industry," said Mary Anne Hitt, Senior Director of the Sierra Club's Beyond Coal Campaign. "Coal ash is a dangerous, widespread problem, but instead of safeguarding the public from its devastating effects, Wheeler is once again ignoring the issue in order to placate his former clients. Without strong federal coal ash regulations, polluters will continue to dump their toxic coal ash waste in unlined pits that will continue failing, endangering drinking water and public safety. The courts have already agreed the risks posed by coal ash can no longer be ignored, and that's why we're fighting this most-recent Wheeler roll back."

"The efforts of the current administration to roll back environmental safeguards are a direct threat to public health and safety," Dr. Scott Williams, Executive Director of HEAL Utah said. "We can't sit by idly and allow these rules to be eliminated. If we do, our most vulnerable populations – our elders and our children – will suffer needlessly from our lack of action."

The petition was filed by Earthjustice, The Environmental Integrity Project, and Sierra Club, on behalf of Clean Water Action, Hoosier Environmental Council, Prairie Rivers Network, HEAL Utah, and Waterkeeper Alliance.

E&E News: Senate Dem says Wehrum has flouted ethics pledge

<https://www.eenews.net/greenwire/2018/10/22/stories/1060104003>

Sean Reilly- Published: Monday, October 22, 2018

EPA air chief Bill Wehrum has ignored President Trump's ethics pledge by meeting with former industry clients covered by his recusal statement, a Senate Democrat charged in letters released over the weekend.

Trump "campaigned on a promise to 'drain the swamp' of corruption in Washington," Sen. Sheldon Whitehouse (D-R.I.) said in a letter to acting EPA Administrator Andrew Wheeler.

"Allowing appointees to openly flout the terms" of that pledge "only serves to make a mockery of it," Whitehouse added in requesting answers to questions by the end of this week.

The pledge requires Trump's appointees to recuse themselves for two years from participation "in any particular matter involving specific parties that is directly and substantially related" to their former employer or specific clients.

But Wehrum — who was sworn in as head of the Office of Air and Radiation last November — signed the recusal statement only last month after Whitehouse had filed a legislative amendment that would have forced him to do so.

Among the clients Wehrum previously represented as an attorney in private practice are Duke Energy Corp., General Electric Co. and the Utility Air Regulatory Group. In the recusal statement, he acknowledged it covered "meetings or other communications" related to performance of his official duties.

But Wehrum returned last December to the offices of his old law firm to speak to a gathering that included representatives of Duke Energy, the Utility Air Regulatory Group and one other former client, Whitehouse wrote.

And in January, Wehrum twice met with General Electric representatives, while in February, he again participated in meetings with Duke Energy and the Utility Air Regulatory Group, the senator said, citing calendar entries released under the Freedom of Information Act. Under Trump's ethics pledge, the air chief's participation in all of those meetings would have been prohibited, he added.

Whitehouse's office also released a Sept. 29 letter from Kevin Minoli, then EPA's designated ethics official, which details a prolonged effort to prod Wehrum into furnishing the recusal statement. After Wehrum initially underwent ethics training last November, Minoli said he met with him in person, communicated by phone and email, and coordinated with Wehrum's staff about his ethics obligations, including the importance of signing a recusal statement.

"Mr. Wehrum initially chose to use other tools that he deemed effective in helping him to comply with the ethics requirements, such as use of a screening official," Minoli wrote.

For meetings involving his former firm, now known as Hunton Andrews Kurth LLP, or former clients, Wehrum's staff coordinates with EPA ethics officials, who provide "appropriate counsel and case-specific advice," Minoli wrote.

He added, however, that Wehrum has not received waivers or authorizations pursuant to Trump's ethics pledge, contained in an executive order issued early last year.

In his letter, Whitehouse, a member of the Senate Environment and Public Works Committee, asked Wheeler to explain how Wehrum would be allowed to meet with former clients without first getting a waiver or authorization. Whitehouse

also asked whether it is "official EPA policy" to allow agency employees to choose their own compliance "tools" and whether Wehrum has faced any consequences.

Whitehouse's office released the Oct. 10 letter on Saturday, along with a similar letter to Trump, also dated Oct. 10.

The White House press office did not reply to an emailed request for comment this morning. Wehrum referred an inquiry to EPA's press office, where spokesman James Hewitt said the agency would reply to Whitehouse "through the proper channels."

E&E News: EPA's carbon rule sparks debate over cost-benefit analyses

<https://www.eenews.net/greenwire/2018/10/22/stories/1060103977>

Niina Heikkinen- Monday, October 22, 2018

Robin Lovett-Owen attended EPA's Chicago public hearing on the proposed replacement for the Obama-era Clean Power Plan to remind the Trump administration that the plan's projected increases in premature mortality and asthma attacks were more than numbers.

The student at the Lutheran School of Theology at Chicago recalled in the Oct. 1 hearing the two children she had met while working as a chaplain in a city hospital's pediatric unit — a teenage athlete and a nonverbal 8-year-old — who both died from asthma attacks.

"It's hard to imagine what those numbers mean when you read them from the comfort of your desk. It's all too easy to imagine what they mean when you've met and mourned children like Xander and Trey," Lovett-Owens said at the only hearing EPA has scheduled on its proposed Affordable Clean Energy rule.

"The deaths of black children in Chicagoland may seem like a far cry from the deaths of white coal miners and their families in Appalachia, but they point to the same truth: The true cost of polluting our air is the deaths of the most vulnerable people in our country, whether they be children of color in urban areas or workers in the hollers of the Smoky Mountains."

Lovett-Owen — a native of coal mining country in east Tennessee — was among many people to point to the 1,400 premature deaths the EPA's analysis says the rule would cause by 2030. How, they asked, could the Trump administration approve a rule that increased the risk of harm?

The answer lies in how the Trump administration has been weighing the costs of implementing the rule against its potential benefits.

As President Trump presses to reduce regulations across the government, EPA has been reworking how it tallies regulatory costs and benefits. Last week, the White House released its report on its rule-slashing efforts that showed EPA planning to proceed with a plan to "clarify interpretations" of cost-benefit analysis with a notice of proposed rulemaking next May (Greenwire, Oct. 17).

William Buzbee, a law professor at Georgetown University Law Center, said the administration is targeting a widely held assumption that regulations should prevent an increase in harm.

"It is rare that you see agency policy shifts that increase a risk," he said in a telephone interview.

Usually, federal agencies face legal hurdles to relaxing health protections. And states like California, known for strict environmental rules, tend to contradict any assertions that stricter standards aren't feasible.

Even businesses, Buzbee said, can undermine efforts to weaken standards by meeting pollution targets more cheaply and easily than expected.

"Why might you still see it? The reason why regulatory choices could lead to increased risks is that many statutes require consideration of a handful of factors, with health among them," he said.

"Health isn't the only criterion driving regulation," he said, but it "often is so central or an overarching goal that most agencies true to their congressionally assigned missions would on their own reject such a change."

Front and center in the Trump administration: the cost of regulating.

EPA released the proposed Affordable Clean Energy rule as the administration was in the midst of a sweeping effort to rein in regulatory spending.

Under Neomi Rao, the administrator of the White House Office of Information and Regulatory Affairs (OIRA), agencies have aggressively looked to cut regulatory costs in line with Trump's Executive Order 13771, which calls for eliminating costs of two regulations for every new rule enacted.

This fiscal year, agencies that succeeded at meeting that standard are being called on to push for even deeper reductions, cutting costs for three regulations for every rule enacted.

While not all federal agencies have kept that pace, the White House recently announced that in fiscal 2018, agencies cut about four significant regulations for every new significant rule put in place.

In a background press briefing last week, a senior administration official said the White House was "expressly focused" on reviewing significant rules that impose the greatest costs on the public.

Playing up costs

Critics of Trump's executive order say it undercuts the cost-benefit analysis process by pushing agencies to focus on cost but saying nothing about preserving rules that provide vital public health and environmental protections.

Sally Katzen, the former head of OIRA under the Clinton administration, notes that the order mentions costs 17 times but never mentions the word "benefits."

"That's not analytically sound," she said. "Not surprisingly, this has energized the left as well as conventional conservative economists to say this is wrong — cost-benefit analysis includes consideration of both sides of the equation, benefits as well as costs."

The administration's focus on cutting regulations also could have an influence on how OIRA reviews EPA's analysis of the power plant rule, according to another former chief of OIRA, which is responsible for reviewing agencies' draft and final regulations.

"At OIRA, the regulatory-policy guidance from cost-benefit analysis will always take a back seat to presidential priorities that relate to specific campaign commitments," John Graham, who led OIRA under President George W. Bush, said in an email.

One of OIRA's "key objectives" was to ensure that agencies honored presidential priorities and policy preferences.

"Thus, the premature deaths that might be induced by a deregulatory action are more of a concern in the judicial review of a regulatory action than they are in OIRA review of a White House-urged deregulatory action," Graham said.

Georgetown University's Buzbee also warned that regulatory revisions that would increase pollution or increase health threats compared with a previous rulemaking are "at high risk of flunking judicial arbitrary and capricious review."

Alan Krupnick, senior fellow at Resources for the Future and former senior economist on the President's Council of Economic Advisers under President Clinton, suggested that critics focusing on the increased risk of premature death

under Trump's proposed power plant rule were taking a "strictly public health perspective," rather than looking at a cost-benefit assessment of whether the rule should go forward.

EPA in this case, he said, would look at the increased risk of death and put a dollar figure on it based on an estimate of "value of statistical life." Then that value, along with any other forgone benefits like reductions in emergency room visits or school absences, is compared with the cost savings of the rule to the power sector.

Those skeptical of the use of cost-benefit analysis to justify regulatory cuts say the administration's current approach has further eroded faith in that assessment tool.

"What we have seen in the economic analysis under this administration is that economic cost-benefit analysis is very easy to manipulate. That has been a clear takeaway," said Amit Narang, regulatory policy advocate at Public Citizen.

Narang suggested cost-benefit analysis should be used in an advisory way and agencies should use risk assessments that don't put a monetary value on life, because the methods of calculating that value are "barely transparent."

But Katzen stands by the analytical approach.

"Cost-benefit analysis is like democracy. It may have flaws, but it is better than anything else," she said. "It makes the decisionmaker consider all the consequences of a proposal in roughly comparable terms: apple and apples."

For Lovett-Owen, the woman preparing to be a Lutheran pastor, her hope was to make her testimony personal for the three EPA officials who oversaw the hearing.

Did she think her approach had an impact?

"When I said was from Appalachia, the man sitting in the middle gave me a thumbs-up and mouthed, 'Me, too,'" she said.

The Ecologist: Do we need to be concerned about asbestos again?

<https://theecologist.org/2018/oct/22/do-we-need-be-concerned-about-asbestos-again>

Emily Folk | 22 October 2018

The EPA in the US is planning to alter the current regulations on asbestos that may allow the harmful substance back into manufacturing.

What's really at stake is the larger role that the EPA will play in regulating chemicals, as the way that the agency handles asbestos may be an indication of how it will treat other potentially harmful substances.

The Environmental Protection Agency (EPA) in the United States announced a proposed new rule, called a Significant New Use Rule (SNUR), regarding asbestos in June.

The EPA claimed that the rule would increase restrictions, while critics - including some current and former EPA employees - worried it could open up loopholes. Others say it doesn't go far enough. The reality of what effect the law will have remains a little uncertain.

Asbestos is a type of naturally occurring mineral that was used widely in the United States and Europe until the 1970s, especially in the construction and automotive sectors.

Earlier rules

The material is resistant to fire and chemical corrosion and does not conduct electricity. It has been used in the production of cement, plastics, insulation, roofing shingles, floor tiles, paints and elsewhere.

Since the 1970s, however, the use of asbestos has declined significantly due to concerns about its health impacts. It is classified as a known human carcinogen and has been shown to cause mesothelioma and other forms of cancer.

The use of asbestos is banned in more than 60 countries, and the substance kills nearly 40,000 Americans a year, according to the Asbestos Disease Awareness Organization. It seems strange then that the EPA is proposing a rule that, if its critics are right, could bring more asbestos into the US. Here's the explanation.

There's room for such a rule because although the use of asbestos is restricted in the United States, it is not entirely banned.

Between 1970 and 1989, the US banned several specific uses of asbestos. In 1989, the EPA attempted to ban all new applications, meaning those developed before 1989 were exempt from the ban, except for those singled out and prohibited by earlier rules.

Boost asbestos

However, the US Circuit Court of Appeals overturned most of this ban in 1991. As a result, the only applications of asbestos the 1989 rules bans are new uses and five that the court did not overturn, which were already obsolete.

The new SNUR would require that certain non-banned uses of asbestos are subject to review by the EPA. Under the rule, companies wanting to use asbestos for these applications would have to notify the EPA, and the agency could decide to allow, regulate or prohibit the usage.

Specifically, the rule applies to what the EPA calls “currently unregulated former uses”. These applications include those that had not been banned and were active at the time of the 1991 court ruling but are no longer in use.

Health concerns are the primary reasons these uses are no longer active. In the rule, the EPA lists 15 of these market uses. The EPA has noted that, without the new rule, companies could start using asbestos for these applications without notifying the EPA.

So, if the rule involves EPA reviews of asbestos uses, why do some believe it could boost asbestos use? The problems that critics point to include the language with which the agency wrote the SNUR and the way it plans to evaluate these applications. Some also believe that the proposal does not go far enough.

Stringent

According to internal EPA emails, some agency staff are worried that the language of the SNUR would allow some uses of asbestos to avoid review. Because the rule only lists 15 applications, currently unregulated uses that the EPA did not list could potentially avoid regulation.

Another concern is related to how the agency has indicated it will review the risks associated with asbestos. According to recently released EPA documents about how the agency plans to review potentially toxic chemicals, it will not consider the impacts of potential exposure due to a chemical's presence in the air, ground or water. It will instead look at risks associated with direct contact.

Critics say that this severely limits the scope of the review and would exclude the impacts of things like improper disposal.

The documents also narrow the definition of asbestos, meaning the EPA will not assess some asbestos-like fibers. It also will not review existing uses of asbestos or the disposal of asbestos and products containing it.

This limited scope suggests that any potential reviews of unregulated uses of asbestos likely won't be very stringent, according to critics.

Potentially harmful

The recent EPA actions, critics point out, represent a drastic change from the original intent of the Toxic Substances Control Act (TSCA), a law directing the EPA to review potentially harmful chemicals including asbestos.

When Congress strengthened the TSCA in 2016, some lawmakers saw it as a chance to try again to ban asbestos broadly. The recent EPA actions do not seem to support this notion.

The impact of these actions, especially regarding asbestos, is somewhat uncertain. There's reason to believe, though, they will change little for the average American.

The SNUR deals mostly with market uses of asbestos that are already obsolete, primarily due to their associated health concerns. These applications have been unregulated for decades, but businesses have still opted not to use them.

Using them is not only a health risk, it would also be a tremendous financial risk for the companies due to potential lawsuits. An estimated 100 companies have been forced into bankruptcy proceedings due to asbestos liabilities.

What's really at stake is the larger role that the EPA will play in regulating chemicals, as the way that the agency handles asbestos may be an indication of how it will treat other potentially harmful substances.

AgPro: EPA Told To Initiate Process To Allow Summertime E15 Sales

<https://www.agprofessional.com/article/epa-told-initiate-process-allow-summertime-e15-sales>

Rhonda Brooks- October 22, 2018 12:18 PM

Allowing the use of E15 year-round could save users between 3 cents and 10 cents per gallon in fuel costs for their vehicles. (Farm Journal)

U.S. consumers may soon have the opportunity to purchase gasoline with a higher ethanol blend year-round. Earlier this month, President Donald Trump announced he wants the sale of gasoline with 15% ethanol, typically referred to as E15, to go 12 months of the year.

"I want more [use] because I don't like \$74," Trump said at a White House meeting, noting the price at the time for a barrel of crude oil. "That's what I want. I want low prices."

Trump has instructed Andrew Wheeler, Environmental Protection Agency (EPA) acting administrator, to initiate the process of lifting the summertime ban on the sale of E15. Sales are currently stopped between June and the middle of September. Opponents of E15 say the higher level of ethanol in it contributes to smog during hot summer days. They also contend that the ban cannot be changed without Congress being involved in the process.

Trade groups and USDA Secretary Sonny Perdue were quick to support the president's announcement.

"Year-round sale of E15 will increase demand for corn, which is obviously good for growers," Perdue said in a prepared statement. "This has been a years-long fight and is another victory for our farm and rural economies."

Allowing the use of E15 year-round could save users between 3 cents and 10 cents per gallon, because ethanol is cheaper than gasoline, notes the National Corn Growers Association (NCGA).

"With 9 out of 10 vehicles on the road today approved to use E15, consumers should have this lower-cost option year-round," says Lynn Chrisp, NCGA president.

E15 is approved for use in model year 2001 and newer passenger cars, light-trucks and medium-duty vehicles. 2001 and newer models account for 82% of vehicle miles traveled in the U.S.

In its October WASDE report, the USDA forecast that the use of corn for ethanol in 2018-19 will reach 5.65 billion bushels of the 14.827-billion-bushel harvest total projected for U.S. corn production this year.

If E15 is allowed to be sold year-round, David Hudak, general manager of POET Biorefining, said sales of the product will surge.

"Once [more] retailers come onboard, and then we get thousands of thousands of stations, then you'll see the product fly," he said on AgDay earlier this summer.

POET produces 1.8 billion gallons of ethanol in seven states, according to Hudak. With more than 200 biofuels facilities across the country, he has no doubts on supplying the demand.

Currently, approximately 1,300 gas stations in 28 states sell E15.

The oil industry is expected to challenge any decision by EPA to waive the summertime ban on E15, saying that Congress will have to be involved to determine whether E15 can be sold year-round. Mike Sommers, American Petroleum Institute president, says the industry would fight such a decision in the courts using "all available legal remedies."

E&E News: Greens sue over EPA denial of cross-state ozone petitions

<https://www.eenews.net/greenwire/stories/1060103985>

Sean Reilly, - Monday, October 22, 2018

Eight environmental and public health advocacy groups are challenging EPA's rejection of bids from Maryland and Delaware for a federal crackdown on upwind power plant emissions from outside their borders.

"The Clean Air Act is clear that EPA must protect downwind states from dangerous air pollution that is encroaching on them from coal plants in neighboring states," Graham McCahan, a senior attorney with the Environmental Defense Fund, said in a news release late Friday announcing the lawsuit filed with the U.S. Court of Appeals for the District of Columbia Circuit. The lead plaintiff is the Chesapeake Bay Foundation. Among seven others are EDF, the Clean Air Council, the Adirondack Club and Physicians for Social Responsibility.

The two states petitioned EPA in 2016 to force coal-fired power producers in Pennsylvania and other states to curb releases of nitrogen oxides (NOx) that were allegedly making it harder for them to meet the 2008 ground-level ozone standard.

In a final decision published earlier this month, EPA rejected both states' "good neighbor" petitions, partly on the grounds that its 2016 Cross-State Air Pollution Rule Update was already addressing the problem.

The suit filed Friday does not spell out the grounds for the challenge. But in comments submitted to EPA last year, the Chesapeake Bay Foundation argued that tighter NOx curbs were warranted for some of the plants targeted in the petitions. The Environmental Defense Fund contended that both Delaware and Maryland had shown that out-of-state emissions were undercutting their efforts to comply with the 2008 ozone standard of 75 parts per billion.

Ozone, the main ingredient in smog, is formed by the reaction of NOx and volatile organic compounds in sunlight. EPA has deemed significant parts of Maryland and Delaware in nonattainment for both the 75-ppb threshold and the more stringent 70-ppb limit set in 2015.

The suit comes days after Maryland also went to the D.C. Circuit to challenge EPA's denial of its petition (E&E News PM, Oct. 17). The Delaware Department of Natural Resources and Environmental Control is weighing its legal options, a spokesman said in an email last week.

The remaining organizations joining in the new suit are the Chesapeake Climate Action Network, the Environmental Integrity Project and the Sierra Club. Many of the same groups had previously banded together in a suit filed last fall in U.S. District Court to compel EPA to make a decision on Maryland's petition after the agency failed to act by a statutory deadline (Greenwire, Oct. 5, 2017). A federal judge later set a timetable requiring EPA to take action by last month.

Slate: Trump's Biggest Attempts to Roll Back Environmental Regulations Remain at the Starting Gate

Our system is actually set up to prevent what Trump wants to do—which is erase regulation for no good reason.

<https://slate.com/technology/2018/10/trump-methane-emissions-deregulation-is-failing.html>

By DAVID J. HAYES- OCT 22, 2018 1:57 PM

Popular in Technology

The Creator of Godwin's Law Interviews David Simon About Nazis on Twitter and Much More

In Praise of Distracted Meditation

The Real Lie About Online Video Runs Deeper Than Facebook's False Metrics

Should You Buy a Mega Millions Ticket?

It is a popular fiction that despite its many foibles, the Trump administration has been successful in dismantling environmental regulations. Given the sheer number of attacks levied on energy and environmental regulations involving the coal, oil, gas, and automotive industries, casual observers might reasonably conclude that the administration is deploying a successful deregulatory strategy.

It is not. The administration has made multiple efforts to put Obama-era regulatory requirements on ice, but these efforts have largely failed. With its delay tactics in tatters, the administration is now taking a different approach—instead of just stopping old regulations, it's surfacing new replacement rules that would let industry walk away from environmental and public-health and safety obligations that have solid evidentiary support and broad appeal. But having squandered half of its four-year term, the White House faces an uphill climb in developing and finalizing many of its major environmental rollback initiatives, and getting them past now-skeptical courts, before the clock runs out.

The efforts to roll back the oil and gas industry's obligations to reduce methane emissions specifically illustrate this reality. Trump's Environmental Protection Agency and Interior Department tried, first, to quickly sideline methane regulations. The gambit failed. Progressive state attorneys general and environmental groups pounced, and won, exposing an impulsive administration that had failed to do its legal homework.

The Trump administration targeted two specific methane rules that the Obama administration had finalized before it left office: the EPA's New Source Performance Standard, or NSPS, and the Interior Department's methane-waste reduction rule. The Obama administration finalized the EPA methane rule in June 2016. It focuses primarily on detecting and repairing methane leaks for new oil and gas drilling activities. In May 2017, former EPA Administrator Scott Pruitt announced a 90-day delay for a key compliance deadline for the NSPS. Three weeks later, the EPA proposed a bare-bones "suspension" rule that sought to delay implementation of the existing rule for two years.

Many of the Trump administration's efforts to remove regulations that it complains are burdening the energy industry remain at the starting gate.

State attorneys general and environmental groups immediately petitioned for court review, arguing that the EPA had no authority to nullify key compliance requirements by administrative fiat. The District of Columbia Circuit Court agreed. It moved swiftly to strike down the EPA's compliance delay, ruling that "an agency issuing a legislative rule is itself bound by the rule until that rule is amended and revoked" through a formal, substantive "notice and comment" process. This ruling sent the EPA back to the drawing board for 14 months.

A similar pattern applies to the Interior Department's restrictions on methane emissions for oil and gas operations conducted on public lands. The department promulgated the methane "waste prevention rule" in November 2016 in

response to evidence gathered by the Government Accountability Office and other watchdog groups that some oil and gas drillers were wasting valuable, publicly owned assets by venting and flaring large quantities of unwanted methane in violation of the Mineral Leasing Act.

Like its efforts to sideline the EPA's methane restrictions, the Trump administration tried to nullify the Interior Department's methane-waste reduction rule. Initial efforts included a failed attempt to overturn the rule under the Congressional Review Act and an unsuccessful petition in the normally friendly U.S. District Court of Wyoming to enjoin operation of the rule. In June 2017, Interior Secretary Zinke announced that the department was delaying industry-compliance requirements under the rule. This effort also failed. A federal court in California agreed with California's and New Mexico's attorneys general, Xavier Becerra and Hector Balderas, that the Interior Department must complete a full rule-making process under the Administrative Procedure Act, or APA, before it can set aside the Obama rule. The court also noted that the Interior Department could not justify its change in direction by myopically focusing on the rule's compliance costs to industry. It also must consider "the benefits of the rule, such as decreased resource waste, air pollution, and enhanced public revenues."

Undeterred by its failures, Zinke's Interior Department moved forward with a "suspension" rule that purported to put off the waste-reduction rule for a full year. California's and New Mexico's attorneys general sued again, arguing that the suspension rule represented an unlawful attempt to circumvent the APA's substantive notice-and-comment rule-making process. In February, Judge Orrick in the Northern District of California agreed, noting, "The BLM's reasoning behind the Suspension Rule is untethered to evidence contradicting the reasons for implementing the Waste Prevention Rule."

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After suffering one defeat after another in its repeated attempts to suspend or delay Obama-era methane regulations, the Trump administration's leadership at EPA and the Interior Department is finally taking on the much harder task of developing and justifying entirely new rules, instead of just rolling back the rules we have. Whether or not they will be successful in turning back the inevitable judicial challenges is murky at best.

The EPA recently proposed a replacement for the NSPS rule that would roll back inspections and repair requirements and drop requirements for third-party validation of leak-detection and repair activities. The new rule identifies modest cost savings to industry but offers no clear, fact-based rebuttal to the Obama administration's analysis of the benefits of the previous rule. Assuming that the EPA pushes forward to a similar final rule, it will confront a strong challenge to the foregone benefits associated with its weakened rule when it faces judicial scrutiny.

The Interior Department also is now moving forward with a replacement rule after the courts rejected the Trump administration's initial efforts to sideline its methane-waste reduction rule. More specifically, it promulgated a new final rule last month that purports to completely remove restrictions on the oil and gas industry's wasting of methane through excessive venting and flaring activities. Within hours of its release, attorneys general Becerra and Balderas challenged the final rule in federal court. In order to succeed in the rule's implementation, the Interior Department must overcome the substantial administrative record that addressed the necessity of regulations proposed in the old rule. (When overturning the department's attempted suspension of the methane-waste reduction rule, Judge Orrick emphasized the Supreme Court's teachings that new administrations cannot simply overturn policies that had been legally established by previous administrations and that the high court requires a "more detailed justification" for overturning existing regulations than what is required for the creation of wholly new regulations from scratch.)

Meanwhile, state attorneys general have put the EPA on the defensive on other methane-emissions-related developments. A coalition of state attorneys general sued the EPA in April for failing to comply with its obligation under the Clean Air Act to restrict methane emissions from existing oil and gas drilling operations. (The NSPS standards apply only to new oil and gas operations.) Eight state attorneys general also sued the EPA in May for failing to enforce

compliance deadlines set forth in a separate rule that applies to methane emissions from landfills. Those suits remain pending.

The same pattern seen in the Trump administration's efforts to roll back EPA and Interior Department requirements to reduce harmful methane emissions is playing out in other environmental and energy contexts. In recent weeks, federal courts struck down attempts by the administration to delay implementation of Obama-era rules protecting workers and first responders from exposure to dangerous chemicals during accidents in industrial chemical facilities as well as delays by the EPA in banning the use of a dangerous pesticide, chlorpyrifos, on food crops.

In all of these matters, Trump's initial deregulatory efforts failed. Some, like the ozone rule, are being dropped entirely. Others are wending their way forward, typically with a cloudy future in terms of their ultimate deregulatory success. Even very high-profile deregulatory matters like the Clean Power Plan and car-tailpipe emissions requirements are only now getting underway in earnest. While the Supreme Court stayed enforcement of the Obama administration's Clean Power Plan in 2016, EPA did not propose a replacement rule—the so-called Affordable Clean Energy Plan—until two months ago. It will be many months more before the replacement rule is finalized and subjected to judicial scrutiny. The same is true for the administration's proposed rules rolling back emissions reductions for cars and light trucks.

In short, many of the Trump administration's efforts to remove regulations that it complains are burdening the energy industry remain at the starting gate. In the coming months, courts will have an opportunity to weigh in and, for at least some of the new rules, send the administration back to the drawing board.

None of this is to say that the administration's onslaught against common-sense regulations and other protections that benefit the environment and public health and safety is not doing real harm. Agencies are taking actions outside the rule-making context, through guidance documents, lack of enforcement, and other administrative actions, to put industry interests above the public interest. But the clock is ticking on many of the administration's most serious rollback efforts, and increasingly, time is not on Trump's side.